

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GENCO IMPORTING INC., et ano.,

Plaintiffs,

-against-

07 Civ. 3560 (LAK)

CITY OF NEW YORK, et al.,

Defendants.

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ORDER

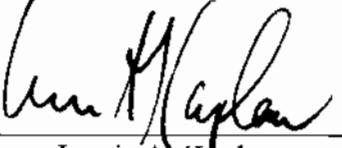
LEWIS A. KAPLAN, *District Judge*.

The Court will hear oral argument on defendants' motion to dismiss the amended complaint at 2:30 p.m. on November 8, 2007.

The amended complaint is dismissed as to defendants New York City Department of Environmental Protection ("DEP") and New York City Environmental Control Board ("ECB"). DEP is a department of defendant City of New York and ECB is a board within DEP. N.Y.C. CHARTER §§ 1401, 1404, subd. a. Neither is an entity with the legal capacity, distinct from the City of New York, to sue or be sued. *See, e.g., Sultan v. New York City Dept. of Buildings*, No. 99 Civ. 8615 (LAK), 2000 WL 262923, at *2 (S.D.N.Y. 2000) (Police and Buildings Departments).

SO ORDERED.

Dated: October 30, 2007


Lewis A. Kaplan
United States District Judge

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